

 <p style="text-align: center;">STATE OF WYOMING DEPARTMENT OF CORRECTIONS</p> <p style="text-align: center;">Policies & Procedures</p>	<p>Authority: Wyoming Statute <u>7-13-301, 35-7-1037,</u> <u>7-19-401 thru 7-19-</u> <u>406, 25-1-105</u> ACA Standard</p>	<p>Policy # <u>4.301</u> : Section <u>4.3</u> : Part <u>IV</u> Title: DNA Sampling</p>
<p>Approved:</p> <p style="text-align: center;"><u>Judith Uphoff /s/</u> Director</p> <p>Date Approved: <u>04/24/00</u></p>	<p>Effective Date: <u>July 15, 1998</u></p> <p>Revision Date: <u>April 27, 2000</u></p> <p>Supersedes Existing Policy # <u>4.301 Eff. July 15, 1998</u></p> <p>Next Review Due: <u>April 27, 2001</u></p>	

I. Purpose

To set forth guidelines for the collection of required DNA samples from convicted felons and the transfer of those DNA samples to the Division of Criminal Investigation.

II. Policy:

- A. It is the policy of the Wyoming Department of Corrections (WDOC) to require collection of DNA samples from convicted felons and transfer those DNA samples to the Wyoming Division of Criminal Investigation (WDCI) pursuant to W.S. 7-19-401 through 7-19-406.
- B. Every person convicted of a felony on or after July 1, 1997, and every person who is in WDOC custody shall provide a DNA sample for analysis.
- C. The DNA record resulting from the DNA analysis shall be stored and maintained by WDCI in the state DNA database.
- D. DNA samples shall be collected in a medically approved manner by a physician, registered nurse, qualified clinical or laboratory technician or other person qualified by training or experience.
- E. DNA samples for persons in custody on or after July 1, 1997, shall be provided prior to release from custody.

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- F. The criminal justice agencies having in-custody persons required to provide a DNA sample shall comply with the WDCI rules and regulations relating to collection and transfer of DNA samples.

III. Definitions

- A. Convicted Felons: Includes pleas of guilty, nolo contendere and verdicts of guilty upon which a judgment of felony conviction may be rendered. A felony conviction does not include dispositions pursuant to W.S. 7-13-301 or 35-7-1037.
- B. WDOC: The Wyoming Department of Corrections.
- C. WDCI: Wyoming Division of Criminal Investigation within the office of the Wyoming Attorney General.
- D. DNA: Deoxyribonucleic acid located in cells.
- E. DNA sample: A human tissue sample containing DNA which may include, but is not limited to, blood, hair, and buccal cells.
- F. In-custody: Imprisoned in the Wyoming State Penitentiary, state penitentiary farms and camps, Wyoming Women's Center, Adult Community Alternative Centers, or on probation or parole.
- G. DNA database: The DNA identification record system established by W.S. 7-19-401 through 7-19-406.
- H. Criminal Justice Agency: Law enforcement and investigative agencies of federal, state and local governments, the Wyoming Department of Family Services, Wyoming Pari-Mutual Commission, investigative and enforcement branches of the United States Social Security Administrator and the Internal Revenue Services, the Wyoming and United States Attorney General's Offices, offices of federal and state prosecuting attorneys and courts, state and federal departments of corrections, probation and parole offices and parole boards, Wyoming adult community corrections facility operators and boards, the United States Department of Defense, and the United States Office of Personnel Management.

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IV. Procedure

A. Division of Prisons

Notice regarding drawing of blood samples for DNA database shall be posted in all inmate living areas to inform each inmate of the intent of W.S. 7-19-401 through 7-19-406.

1. Each correctional facility's Warden/Superintendent and medical department will develop their site-specific protocol to bring that correctional facility into compliance with W.S. 7-19-401 through 7-19-406.
2. One copy of the WDCI white submitting envelop will be placed in the inmate's correctional facility base file, one in the inmate's medical file and one in the WDOC Central Office base file.
3. All inmates will be required to provide only one (1) DNA sample if it can be verified that a sample has been provided. Compliance with the statute will be accomplished by checking the inmate's correctional facility base file, the inmate's medical record, or the WDOC base file. If there is no record of an inmate's providing the required DNA sample, compliance will be accomplished in one of the following ways:
 - a. All incoming inmates will have a DNA sample collected by medical personnel at the time of their intake physical.
 - b. Inmates entering the Intensive Treatment Unit will provide a DNA sample prior to entry into the program.
 - c. Inmates scheduled for transfer to the Wyoming Honor Farm, Wyoming Honor Conservation Camp, or Wyoming Boot Camp will provide a DNA sample prior to this assignment.
 - d. Inmates currently assigned to the Wyoming Honor Farm, Wyoming Honor Conservation Camp or Wyoming Boot Camp will provide a

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DNA sample when requested. Inmates refusing to provide a DNA sample will be transferred to WSP.

- e. Inmates currently participating in or scheduled for a work release program will provide a DNA sample prior to returning to or entering the program. Inmates refusing to provide a DNA sample when requested will be returned to WSP or WWC.
 - f. Inmates approved for an assignment to an Adult Community Alternative Center will provide a DNA sample prior to transfer to the facility.
 - g. All inmates will provide a DNA sample prior to release either by expiration of sentence, parole, or sentence reduction.
 - h. All WDOC inmates housed outside of the agency will be returned to a WDOC correctional facility prior to discharge or parole. DNA samples will be obtained at that time.
4. The records office at the Wyoming State Penitentiary and Wyoming Women's Center will submit a monthly list of inmates who will be released due to the expiration of sentence during the subsequent six (6) month period. The original list will be sent to the respective correctional facility medical department with a copy to the health services administrator in the WDOC central office. The list will contain the inmate name, correctional facility number, release date and the sentencing county.
 5. Upon receipt of the correctional facility record office list stated above, these inmates will be called to the medical department and will requested to provide a DNA sample. The names and associated information of any inmate refusing to provide the required DNA sample shall be forwarded to the health services administrator in the WDOC central office.
 - a. Refusal to provide the required DNA sample by any inmate will be considered a violation of the Code of Inmate Discipline as an MJ-46, violation of state law.

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- b. The WDOC attorney may petition the district court for an order requiring the inmate to provide the DNA sample prior to release.
- c. If an inmate is unable to provide a DNA blood sample because of physical limitations, the inmate's name, date of birth and social security number will be sent to the health service administrator in central office. An alternative method of DNA sample collection will be provided by WDCI.

B. Division of Field Services

- 1. Each field office will schedule blood draws for every person convicted of a felony who is on probation or parole.
- 2. District Supervisors will arrange for the designated medical service provider to perform the blood draws at each of the probation and parole field offices and will arrange to have a WDOC witness present to observe the blood draws.
- 3. WDOC staff will give probationers and parolees notification of the statutory DNA sampling requirement.
- 4. WDOC witnesses to the blood draws will make two (2) copies of the front of the WDCI white submitting envelope enclosed in the blood draw kits which identifies the chain of custody. One (1) copy will be placed in the offender's field file and one (1) will be placed in the WDOC central office file located at 700 W. 21st. Street, Cheyenne, Wyoming 82002. Central office will use the copy received for tracking purposes.
 - a. If a probationer is revoked and the original sentence is imposed, the parole board staff will notify the WSP or the WWC if DNA testing has taken place. Each file sent to the respective correctional facility should contain a copy of the white submitting envelope.
 - b. For the inmates released to parole, the institutions will include the date the DNA sample was taken on the ODDS form.

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5. WDOC will collect a blood sample from offenders being supervised in Wyoming through the Interstate Compact. Offenders here through Interstate Compact will be notified of the statutory DNA sampling requirement. If an offender from another state indicates that he/she has provided a sample in his/her home state and the sending state will provide verification of the DNA sampling, the offender will not be required to provide an additional sample. If, however, the sending state does not provide verification of DNA sampling, the offender will be required to submit to DNA sampling pursuant to the statutory requirement.
 6. Refusal to submit to the DNA sampling requirement will result in the State of Wyoming conducting a preliminary hearing in an effort to return the offender to his/her home state.
 7. WDOC witnesses will follow the instructions on initialing and sealing the blood samples and will properly refrigerate, if needed, the samples until they are transported to the Wyoming State Crime Laboratory within the WDCI.
 8. Samples mailed to the Wyoming State Crime Laboratory must be by United Postal Service (UPS), Federal Express, or by Registered Mail.
 9. Any offender who fails to provide a required DNA sample will be reported to the county prosecuting attorney or the Wyoming Board of Parole for review and additional action including possible revocation.
 10. If an offender is unable to provide a DNA blood sample because of physical limitations, the offender's name, date of birth and social security number will be sent to the health service administrator in central office. An alternative method of DNA sample collection will be provided by WDCI.
- C. Adult Community Alternative Centers
1. WDOC correctional facility staff will provide written notification to the directors of the Adult Community Alternative Centers as to which inmates housed in those facilities are required to provide a blood sample for DNA testing.

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2. The directors of the Adult Community Alternative Centers will contact the local probation and parole field offices to arrange for inmates in their facilities to have their blood drawn.
3. WDOC witnesses will be present at the blood draws, responsible for following the instructions on initialing and sealing the blood samples, and the proper refrigeration and storage of the blood samples until they are transported to the Wyoming State Crime Laboratory.
4. Four (4) copies of the front of the WDCI white submitting envelope will be made and sent to the following locations:
 - a. WDOC Central Office: -1 copy (tracking the offender)
 - b. WSP or WWC: -2 copies (one for the correctional facility base file and the other for the inmates' medical file)
 - c. Directors of the Adult Community Alternative Centers: -1 copy (community alternative records)
5. Once the backlog of inmates transitioned to Adult Community Alternative Centers have provided blood samples, future blood draws will occur at the Wyoming State Penitentiary or the Wyoming Women's Center prior to any inmate's transition to a community facility.
6. Inmates currently assigned to an Adult Community Alternative Center who refuse to provide a DNA sample will be transferred back to WSP or WWC.

V. Training Points

A. Division of Prisons:

1. What is the definition of DNA?

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2. How many DNA samples must each inmate give?
3. When is an inmate expected to give his/her DNA sample?
4. What if an inmate refuses to give a DNA sample?
5. What is the process if an inmate is unable to provide a DNA sample?

B. Division of Field Services:

1. What is the definition of DNA?
2. Who is required to give a DNA sample?
3. How do you know if a probation or parolee has already given a DNA sample?
4. What if an offender refuses to give a DNA sample?
5. What if an offender is unable to provide a DNA sample?

C. Adult Community Alternative Centers:

1. Who advises the ACC as to which inmates need to provide DNA blood samples?
2. What if an inmate housed at an ACC refused to provide a DNA sample?